

in support of Proposition F to transfer the property to a private organization. But still they didn't stop, and we have continued to see the litigation go on and on. Some of it arises from the case law and the very strong constitutional provisions unique to California.

In 2002, the Ninth Circuit had a ruling on it, and this is what they ruled: that the "no aid to religion" clause of the California Constitution prohibited California from transferring this property to a private association because any buyer who did not desire to keep the cross that was there would be required to pay for its removal, whereas an entity who wanted to buy and did not want to take the cross down would not have any expense; therefore, this aided religion. Now, that is the theory of it. I think that is not a sound analysis.

The Ninth Circuit is the most activist circuit in the country and we continue to have problems with them. They are reversed by the U.S. Supreme Court more often than any other circuit. Some years they have been reversed more often than all of the other circuits combined. One year it was 26 out of 27 cases the Supreme Court considered, they reversed. So that is what causes this problem.

A plan has been devised. Congressman HUNTER, who represents San Diego, and Congressman BRIAN BILBRAY, who represents the Mt. Soledad district, have worked hard to prepare legislation that would transfer it to the Federal Government, because this wouldn't be unconstitutional under Federal law. It passed in the House by an overwhelming vote of 349 to 74. We want to see that pass here. It has been called up and cleared on the Republican side of the aisle, and it is now being objected to by some on the Democratic side. So I would ask my colleagues on the Democratic side to work through this thing and see if we can get it passed. It would allow the veterans to be able to continue to have the memorial on Federal property that has been in place for 54 years. It does not establish a religion. On Federal property, it is consistent with the wishes of those veterans and their families for over a half a century.

I would note we have Democratic support for this concept. I notice that in one of the news articles from the Copley News Service here, Senator BARBARA BOXER, a California Senator, and one of the other Democratic Members, said:

[T]he monument is a historic memorial to our veterans and should be allowed to stay.

Senator DIANNE FEINSTEIN, the other Senator from California, has said:

[B]ecause of the history and significance of this monument to so many veterans and San Diegans, it should be preserved.

So the Congressmen there, the people of San Diego, and the Senators from California are in favor of this. It is as a result of this complex history and the obsession by the courts, it appears, to just eliminate any reference, any ex-

pression of religion whatsoever from the public square, even if it is not consistent with the U.S. Constitution, in my view.

I believe this legislation is important and should be passed. We can make this happen. I ask my colleagues to review it. I will plan to come back and deal with it some more if we cannot get it cleared. We need to have a vote on it, if it cannot be cleared voluntarily. I hope we can avoid that.

Mr. President, I note there are other Senators here wishing to speak. We are on the drilling offshore bill in the gulf, and that is a very important piece of legislation.

I, again, note I have asked this morning that this be cleared. We have another objection. We will continue to persist with this until we get everybody's attention and maybe they can review it and see fit to clear it. I think they will. If not, I will be asking the leader to invoke cloture on the legislation.

I further add, Senator MCCAIN has also offered legislation similar to mine. It would do the same thing. But the bill we are asking clearance on is the bill that came from the House, H.R. 5683.

I yield the floor.

MOUNT SOLEDAD CROSS

Mr. MCCAIN. Mr. President, I would like to express my strong support for passage of H.R. 5683, legislation passed by the House last week to preserve the Mount Soledad Veterans Memorial in Diego, CA. I want to associate myself with the comments made by my colleague, Senator SESSIONS. He and I both have introduced legislation similar to H.R. 5683 and I am pleased that Senator GRAHAM also has joined us in advocating a legislative solution to this important matter.

Since 1913, a series of crosses have stood on top of Mount Soledad, property owned by the city of San Diego. In April of 1954, the site was designated to commemorate the sacrifices made by members of the armed forces who served in World War II, as well as the Korean war.

In 1989, one individual filed suit against the city claiming that the display of the cross by the city was unconstitutional and, therefore, violated his civil rights. In 1991, a Federal judge issued an injunction prohibiting the permanent display of the cross on city property. Since that time, the city has repeatedly tried to divest itself of the property through sale or donation. But the plaintiff continued to mount legal challenges to every attempted property transfer. The legal wrangling over this memorial continues today.

The Mount Soledad Memorial is a remarkably popular landmark. In fact, I had the pleasure of visiting the Memorial during the Fourth of July recess and can personally attest to the profound impression it can leave on its visitors.

It is also of great importance to the local community. On two different occasions, the voters of San Diego have overwhelming passed ballot measures designed to transfer the property to entities which could maintain the cross. Given the many years of legal disputes regarding this memorial, I believe it is past time that this issue be resolved.

The bill that we are seeking to pass would bring the Mount Soledad cross under the control of the Federal Government, and specifically, the Department of Defense and would allow for the just compensation for the property in question. It also would address the required maintenance for the memorial and the surrounding property through a memorandum of understanding between the Secretary of Defense and the Mount Soledad Memorial Association. The minimal financial commitment required in this legislation will ensure the endurance of this memorial which serves as a reminder of the hundreds of thousands of men and women who made enormous sacrifices when our country called upon them.

I understand the bill has cleared on our side, and that we are awaiting for the other side to allow its approval. I can only hope that all of my colleagues will join us in supporting this legislation, and ensure the preservation of an important tribute to our men and women of the Armed Forces.

THE WAR IN IRAQ

Mr. BYRD. Mr. President, yesterday the Prime Minister of Iraq addressed a joint meeting of Congress. In his speech, he stressed his view that great progress has been made in his country in the past months and equated the violence in Iraq to the al-Qaida attacks on the United States on September 11, 2001. With the Prime Minister's comments in mind, it is worth taking stock of how this war began 3 years, 4 months, and 1 week ago. Let me say that again. It is worth taking stock of how this war began 3 years, 4 months, and 1 week ago.

The war in Iraq, that is what I am talking about. The war in Iraq. There is a war going on there, and we are involved in it. Our men and women are over there in harm's way. They die every day. The war in Iraq was initiated on the false promise of securing our country from the threat of weapons of mass destruction. That was a false promise. There have been many efforts to try to rewrite history. You can't do it. But there have been efforts to try to rewrite history and to try to find a new justification for the invasion of Iraq. But one need look no further than the use of force authorization passed by the Congress—when? On October 11, 2002. Look at that use of force resolution.

That resolution contains 23 "whereas" clauses. You can count them. Ten of those "whereas" clauses pertained to Iraq's efforts to develop weapons of mass destruction. The idea that Iraq

could threaten our country with weapons of mass destruction was the key-stone of the argument for war. It was the one allegation at the center of nearly all the cases that were made for war.

I didn't fall for that. I didn't fall for that reason because I didn't believe it was there. I didn't believe that Iraq was a threat to the security of this country. I didn't believe it. I had reasons for not believing it, and I have said them many times.

The agencies that produced the intelligence to build the case for war have admitted that they made massive errors. Intelligence was massaged. Did you get that? Intelligence was massaged to remove most of the dissenting views. Dissenting views were not listened to very well. Congress, in 2004, even rushed to reorganize the CIA and the rest of our intelligence agencies based upon these massive failures—failures that built a flawed and discredited case for U.S. entry into that war.

I did not buy into the hype and the rush to war. I didn't buy into that. I didn't buy into that case. I didn't believe we had that case for war. I did not believe Iraq posed an imminent threat to the security of this country. I did not believe it. I said so. And therefore I voted against turning this whole thing—lock, stock, and barrel—over to one man, the President of the United States. Congress relegated itself to the sidelines, and it has never gotten itself off the sidelines, really. We are still there.

I did not believe Congress should have passed the resolution to allow the President—any President, not just this President, any President—to decide where, when, and why to launch an attack on Iraq. I did not believe then, I do not believe now, that one man, Democratic or Republican, or one woman, acting as the chief executive of our country, should be handed the authority to decide on his own to shed the precious blood of our sons and daughters, husbands and wives—to shed their blood.

The American people at this point should pause and reflect now on where our Nation stands in this war. Where does our Nation stand in this war in Iraq? As of today, July 27, 2,564—2,564—American men and women have been killed—dead. Upwards of \$318 billion—that is a lot of money—upwards of \$318 billion has been drained from our Treasury. Talk persists of more than 100,000 of our troops remaining in Iraq for many years to come—many years to come. Most ominously, the violence in Iraq appears to have entered a new phase. Mr. President, 2½ months after the killing of the terrorist leader Zarqawi, an average of 100 Iraqis are being killed every day, according to a new report by the United Nations.

Who is responsible for this violence in Iraq? Is it Osama bin Laden or some other nefarious outside force? Is it the same terrorists who plotted the attack on the World Trade Center? Is it the

same miscreants responsible for the train bombings in London and Madrid? The answer is no. This wave of violence which has crashed over Iraq is the result of Iraqis fighting and killing Iraqis. Militias and death squads are carrying out a brutal campaign of violence against fellow Iraqis. Shiites are fighting Sunnis. Sunnis are killing Shiites. The Kurds of the north are under attack. No one is safe from these indiscriminate killings—not doctors, not teachers, not even children. Iraq is being ripped apart from the inside out.

Could there be any doubt that there is a civil war in Iraq? Statistics gathered by the Iraqi Government: 2,669 Iraqi civilians were killed in May; another 3,149 Iraqi civilians were killed in June. Government figures show that 14,338 civilians were killed in Iraq in the first 6 months of this year. At least 100,000 Iraqis are refugees in their own country. Yes, there is a civil war going on in Iraq. It is a civil war that has been brewing, brewing, brewing since we first opened this Pandora's box by invading Iraq in March of 2003.

I didn't vote for that invasion.

The question is, What are our troops doing in the middle of this civil war? What are American troops doing in the middle of this civil war? The American people should take notice of what is happening in Iraq. The American people—it is their sons and daughters, yes. Our troops are increasingly being thrust into this fighting with no plan for success. It is time to stop, look, and listen, and time to ask questions about where we are headed. Are our troops on the way out of Iraq or are they on their way in? Are they being drawn deeper into this civil war? Is there any chance for our troops to win a decisive victory on the battlefield or is the fate of our soldiers tied to the political fortunes of untested Iraqi politicians? Does anyone in this administration have a plan for how to deal with this civil war which is going on in Iraq?

These are not inconsequential questions. These are important questions. These are important questions for the people of our country. But instead of telling the American people how we are going to disentangle ourselves from the sectarian violence in Iraq, we learn this week that the President plans to send more American troops into Baghdad to take sides in the Iraqi-on-Iraqi fighting that is tearing that country apart. The President announced on Tuesday—yes, he did—that he is sending thousands more U.S. troops into Baghdad, which is the center of the storm of violence.

So I say to the people out there watching through those electronic lenses, is this our plan? Is this our plan for dealing with an Iraqi civil war? When I asked Secretary Rumsfeld at an Appropriations Committee hearing on March 9 about his plan if civil war were to break out in Iraq, he said, "The plan is to prevent a civil war, and to the extent one were to occur, to have the . . . Iraqi security forces deal with it, to the extent they are able to."

Those are quotations. You can look at the Appropriations Committee hearings and find these words for yourselves.

The plan to have Iraqis deal with their own civil war appears to be on its way out the window. The Iraqi Prime Minister's attempts to pacify Baghdad with Iraqi troops has failed. In fact, the Prime Minister, in his speech to Congress, pleaded for more foreign aid and urged our troops to stay until Iraqis are ready to take up the fight to defend their Government.

Sending more U.S. troops to deal with domestic strife is not the right course. What we are seeing in Iraq is mission creep, mission creep, creep, creep, creep of the worst kind. The mission to overthrow Saddam Hussein is transforming before our very eyes into a mission to take sides between warring ethnic factions. This is a plan for disaster.

Our troops have bravely served in Iraq for more than 3 years. They have done everything that has been asked of them. Our troops did not ask to be sent to war, but the call to service has gone out and our servicemembers have responded. They have fought, they have been wounded, they have bled, and they have died for what our country has asked them to do. But we owe it to our troops to be judicious in what we ask them to do. We owe it to our troops not to send them headlong into fighting when there is no plan for victory. We owe it to our troops not to send them into the center of a civil war without raising so much as a question, without raising so much as a question about whether they belong there.

We cannot allow the escalating war in Lebanon to distract us from the deteriorating situation in Iraq. Look at what is going on. Open your eyes. The fighting between Israel and Lebanon has dominated our attention, but the administration is on the verge of making irreversible decisions about how deeply our troops will be involved in Iraq's civil war.

Before more of our troops are sent to Baghdad, the Senate must ask tough questions of Secretary Rumsfeld and our military commanders about whether they have a plan for dealing with the civil war in Iraq. The Armed Services Committee on which I serve must have a chance to exercise its oversight responsibilities before more of our troops are ordered to take sides in a fight that is pitting Iraqi against Iraqi. We have seen before the disastrous consequences of ordering our troops into the middle of civil wars. Do we remember the 241 marines who were killed in Beirut in 1983? Do we remember that? Let us remember the bloody battle in Somalia in 1993.

Let us have more wisdom, more caution, and a coherent strategy before we marshal our forces to send them once more into the breach in Baghdad. We owe that much to our brave troops. We owe that much to their moms and their dads, their wives and their children

anxiously awaiting their safe return home.

I yield the floor.

DISCRIMINATION ON THE INTERNET

Mr. WYDEN. Mr. President, several weeks ago I came to the Senate to announce I will do everything in my power to block this Senate from considering the major overhaul of the telecommunications legislation until that legislation includes specific provisions to ensure that there is no discrimination on the Internet. A discrimination-free Internet essentially is what the net neutrality debate is all about.

Certainly colleagues have been hearing a great deal about this subject as those who oppose net neutrality have spent millions and millions of dollars trying to convince the American people and the Congress that somehow discrimination on the net is a good thing. They have made a big point of trying to say that net neutrality is a very complicated issue, it is one involving technical issues of communications law, and it ought to be something left to lawyers and lobbyists to sort out in Washington, DC.

That is not good enough for me and I don't think it is good enough for the American people. In fact, more than 500 organizations with views all across the political spectrum have come together to support net neutrality and a discrimination-free Internet.

This is the fourth time I have come to the Senate to outline examples of what will happen if discrimination is allowed on the Internet and also to respond to some of the most directly asked questions about what net neutrality is all about.

Today I begin my discussion with a new development just reported by the Reuters News Service. Reuters News Service reported this week that the profits of the AT&T company were up by 35 percent, bolstered "by strong growth in wireless and high speed Internet services."

I am of the view this is excellent news. I want to see American companies be profitable. I believe in markets. I believe in wealth creation. When our companies do well, of course, they pay taxes. They pay taxes to the American Government and that can be used for health care, education, and other services our citizens have such a great interest in. It is free enterprise that makes markets work.

When Reuters reports that AT&T has made a 35-percent profit primarily due to wireless and high-speed Internet services, the digital part of the economy, that is good news.

However, there are other implications with respect to the news this week about AT&T profits. It seems to me what the news highlights this week is that AT&T can make money with an Internet that is discrimination free. They have been arguing, as part of the discussion involving telecommuni-

cations, that somehow it will not be possible for them to make the profits that are necessary for broadband and sophisticated communication services to get to all the people of this country.

The news this week shows that AT&T and other companies can be profitable with an Internet that is discrimination free. They do not need to throw net neutrality into the trash can in order to do well. The events of this past week have proved that AT&T does not need to discriminate in order to make money.

To continue with the discussion I have begun over the last few weeks, I also want to go to the question of "won't consumers just get their broadband from companies that do not discriminate on the net if somehow we don't have net neutrality." This is an excellent question. The answer is simple. If there were a competitive market for high-speed Internet services, the market would guarantee net neutrality. Consumers would insist that the Internet remain free of discrimination and they could take their business elsewhere if they didn't happen to approve of discrimination.

Unfortunately, there is not a competitive market today for high-speed Internet. Until there is, strong net neutrality protections are needed. What is the market for high-speed Internet? According to the Government Accountability Office, in 2005, about 30 million Americans had broadband service. However, most of these Americans have a choice of perhaps only two broadband providers, the local phone company and the local cable company.

Some may have only one provider. Others may have no options at all. No choice, limited choice, certainly is not my view of a competitive market. A choice between two is only one step beyond a monopoly. Most experts say at least four providers are needed in a market for it to be truly competitive. Today's market is still a long way away from the kind of competitive model we need to best serve our citizens with the communications services they deserve.

Many of my colleagues have stressed the possibilities of satellite, broadband over power line, or wireless as competitors to what is called DSL and cable. These offerings are not real competitors. Satellite high-speed Internet is too expensive for the consumer to be a real competitor with today's services. Both wireless and broadband over power line are new technologies, and we all hope that someday they are going to develop into competitive options to the phone and cable company offerings. They ought to be encouraged. However, they are still new, and until they become widespread and priced at a competitive level with cable, for example, the market for high-speed Internet will remain limited or will remain a duopoly.

A second question I am often asked is: As a small business, what does all this Net neutrality stuff mean to me?

Last week, I came to the Senate floor and explained what it means for consumers. Small businesses, of course, are just one type of consumer in the market. And no Net neutrality is going to mean the same thing for the millions of small businesses that it means for consumers: a double-barreled discrimination with less choice and a higher price. Small businesses also have a second concern: They use the Net not just as a consumer but also as a market for their business. They have Web sites. Small businesses across the country use the Net to market their products. Through Web sites such as NexTag and Yahoo Shopping, small retail shops are able to reach millions and millions of homes that they could not otherwise access. A bed and breakfast, say, in central Oregon, in Bend, OR, is able to market itself on the Net and compete with a Holiday Inn. For the small businesses, the prospect of a two-tiered discriminatory Internet, where they will have to pay priority access fees to network operators, is daunting.

For a small business, the fees that the large Bells and cable companies would charge could have a chilling effect on their ability to do business online. While large businesses can afford to take on these additional costs with only a small hit to their overall profitability, many small businesses are not going to be able to pay these extra fees. This would mean they would either get stuck on the Internet slow lane or have to mark up their prices more than big businesses. Either way, without an Internet free of discrimination, these small businesses are going to be at a competitive disadvantage.

In my previous discussions on the floor, in addition to trying to respond to some of the major questions people are asking about Net neutrality, I have tried to bring out several specific examples of the kind of discrimination that would be allowed under the bill that was passed by the Senate Commerce Committee recently. So today I want to outline two additional examples of what could happen to our small businesses if legislation allowing discrimination on the Net were allowed to move forward.

Let's say, for the purpose of the first example, we have a family known as the Taylors. The Taylors own an inn on the Oregon coastline. Occupancy has been lower lately because a large new national chain hotel opened up down the road. George Taylor's son Mike comes up with an idea to save the inn by reaching out to new customers: They ought to start a Web site to market their inn and take reservations online.

In a world with Net neutrality, the Taylor family, with that small inn, would pay to access the Net, create a Web page, and they would be off to the races, up and running, marketing their business. Under the Commerce Committee bill, in order to launch their Web page in the fast lane so they could